

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MICHAEL S. STAFFORD,)	
)	
Plaintiff,)	4:08CV3010
)	
v.)	
)	
CORRECTIONAL OFFICER TERESA)	ORDER
KOEHLER,)	
)	
Defendant.)	
_____)	

This matter is before the Court on defendant's motion for leave to file dispositive motion out of time (Filing No. [39](#)). Also pending are plaintiff's motion to appoint counsel and motion for reconsideration regarding motion to appoint counsel (Filing Nos. [33](#) and [40](#)).

In the motion for leave to file dispositive motion out of time, defendant's counsel states that he only recently became aware of the February 23, 2009, order setting schedule for progression of a case and that he needs additional time to prepare a motion for summary judgment based on qualified immunity (Filing No. [39](#)). For good cause shown, the motion for leave to file dispositive motion out of time will be granted. The order setting schedule for progression of a case is amended, as set forth below.

In his two pending motions, plaintiff seeks the appointment of counsel. As the Court has previously informed plaintiff, it cannot routinely appoint counsel in civil cases.

In Davis v. Scott, 94 F.3d 444, 447 (8th Cir. 1996), the Eighth Circuit Court of Appeals explained that “[i]ndigent civil litigants do not have a constitutional or statutory right to appointed counsel. . . . The trial court has broad discretion to decide whether both the plaintiff and the court will benefit from the appointment of counsel” Id. (quotation and citation omitted). No such benefit is apparent here. As with plaintiff’s previous requests, his motions requesting the appointment of counsel will be denied. Accordingly,

IT IS ORDERED:

1. Defendant’s motion for leave to file dispositive motion out of time (Filing No. 39) is granted.

2. Plaintiff’s motion to appoint counsel and motion for reconsideration regarding motion to appoint counsel (Filing Nos. 33 and 40) are denied.

3. The order setting schedule for progression of a case filed in this matter is modified as follows:

A. All dispositive motions shall be filed on or before **August 31, 2009**. The parties must comply with the provisions of NECivR 7.1(a-h) and NECivR 56.1 when filing summary judgment motions.

B. Defense counsel will have the primary responsibility for drafting the order on final pretrial conference, pursuant to the format and requirements set out in

[NeCivR 16.2\(a\)\(2\)](#). The plaintiff will be responsible for cooperating in the preparation and signing of the final version of the order. The order should be submitted to the plaintiff and to any other parties by **November 16, 2009**. The plaintiff shall provide additions and/or proposed deletions to defense counsel by **November 30, 2009**. Defense counsel shall submit the proposed order on final pretrial conference to the Court by no later than **December 14, 2009**. If a party proposes an addition or deletion which is not agreed to by all the other parties, that fact should be noted in the text of the document. The proposed order on final pretrial conference must be signed by all pro se parties and by counsel for all represented parties.

C. The final pretrial conference will be held before District Judge Richard Kopf on **December 29, 2009, at 12 noon**. The final pretrial conference will take place at the Robert V. Denney Federal Building, 100 Centennial Mall South, Lincoln, Nebraska, in Courtroom No. 1. Prior to the pretrial conference, all items as directed in [NeCivR 16.2](#) and full preparation shall have been completed so that trial may begin at any time following the pretrial conference.

4. The clerk of the court is directed to set a pro se case management deadline in this case using the following text: Pretrial conference before Judge Kopf to be held on December 29, 2009.

DATED this 10th day of August, 2009.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court